OCT 7
JOHN T. FEY

No. 481

In the Supreme Court of the United States

OCTOBER TERM, 1957

ROCKWELL KENT AND WALTER BRIEHL, PETITIONERS

v.

JOHN FOSTER DULLES, SECRETARY OF STATE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE RESPONDENT

J. LEE RANKIN,
Solicitor General,
Department of Justice, Washington 25, D. C.

In the Supreme Court of the United States

OCTOBER TERM, 1957

No. 481

ROCKWELL KENT AND WALTER BRIEHL, PETITIONERS

v.

JOHN FOSTER DULLES, SECRTARY OF STATE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE RESPONDENT

Petitioners seek review of decisions of the Court of Appeals for the District of Columbia Circuit, sitting *en banc,* holding that the Secretary of State is validly authorized, during time of war or national emergency, to deny passports on grounds to which present or past Communist Party membership may be relevant, and that he may therefore refuse to process the passport applications of persons who refuse to comply with a request for an affidavit inquiring into such membership.

In our view, these decisions are clearly correct. Nevertheless, in the light of the continuing importance of the issues presented and of the diversity of views

on particular aspects of these questions expressed in the courts below, the respondent does not oppose the granting of the writ of certiorari so that an authoritative ruling may be made by this Court.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.

OCTOBER 1957.